

**MINUTES OF THE
BOARD OF DIRECTORS MEETING OF THE
OTAY WATER DISTRICT
May 2, 2007**

1. The meeting was called to order by President Croucher at 3:32 p.m.

2. ROLL CALL

Directors Present: Croucher, Breitfelder, Lopez and Robak

Directors Absent: Bonilla

Staff Present: General Manager Mark Watton, Asst. GM Administration and Finance German Alvarez, General Counsel Yuri Calderon, Chief of Information Technology Geoff Stevens, Chief Financial Officer Joe Beachem, Chief of Engineering Rod Posada, Chief of Operations Pedro Porrás, Chief of Administration Rom Sarno, District Secretary Susan Cruz and others per attached list.

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF AGENDA

A motion was made by Director Breitfelder, seconded by Director Robak and carried with the following vote:

Ayes:	Directors Breitfelder, Croucher, Lopez and Robak
Noes:	None
Abstain:	None
Absent:	Director Bonilla

to approve the agenda.

5. APPROVAL OF MINUTES

A motion was made by Director Breitfelder, seconded by Director Lopez and carried with the following vote:

Ayes:	Directors Breitfelder, Croucher, Lopez and Robak
Noes:	None
Abstain:	None
Absent:	Director Bonilla

to approve the minutes of the regular board meeting of November 1, 2006, January 3, 2007 and special meeting of September 25, 2006.

6. PUBLIC PARTICIPATION – OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO SPEAK TO THE BOARD ON ANY SUBJECT MATTER WITHIN THE BOARD'S JURISDICTION BUT NOT AN ITEM ON TODAY'S AGENDA

No one wished to be heard.

CONSENT CALENDAR

7. ITEMS TO BE ACTED UPON WITHOUT DISCUSSION, UNLESS A REQUEST IS MADE BY A MEMBER OF THE BOARD OR THE PUBLIC TO DISCUSS A PARTICULAR ITEM:

A motion was made by Director Lopez, seconded by Director Breitfelder and carried with the following vote:

Ayes:	Directors Breitfelder, Croucher, Lopez and Robak
Noes:	None
Abstain:	None
Absent:	Director Bonilla

to approve the following consent calendar items:

- b) AWARD A CONSTRUCTION CONTRACT TO M&M GENERAL ENGINEERING CONTRACTORS, INC. IN THE AMOUNT OF \$128,650 FOR THE FACILITIES PAVEMENT PROGRAM TELEGRAPH CANYON ROAD PROJECT
- c) AWARD A PROFESSIONAL VALUE ENGINEERING AND CONSTRUCTABILITY REVIEW SERVICES CONTRACT TO HARRIS & ASSOCIATES FOR THE 36-INCH PIPELINE, SAN DIEGO COUNTY WATER AUTHORITY OTAY FCF NO. 14 TO THE REGULATORY SITE PROJECT FOR AN AMOUNT NOT TO EXCEED \$107,138

Director Breitfelder requested that Agenda Items 6a and 6d be pulled for further discussion:

- a) APPROVE THE IMPLEMENTATION OF A WINTER-CONSUMPTION BASED SEWER CHARGE METHODOLOGY FOR RESIDENTIAL SEWER CUSTOMERS AND COMMERCIAL SEWER CUSTOMERS WITHOUT A SEPARATE IRRIGATION METER

Finance Manager Rita Bell indicated that staff is requesting that the Board approve a methodology change for the calculation of sewer rates. Staff is recommending that sewer rates change from a flat rate to a winter-consumption based sewer charge for residential sewer customers. This change would also use winter-consumption to estimate non-irrigation use for commercial sewer

customers without a separate irrigation meter. She indicated that there are several reasons to change the rate structure which includes:

- (1) Best Management Practice (BMP) 11 recommends a conservation based rate structure. She indicated that water customers are billed on this methodology but sewer customers are billed at a flat rate.
- (2) Strategic Plan Objective – has been a goal in the District's Strategic Plan.
- (3) Encourages Water Conservation
- (4) More Equitable to Customers – Currently, a single person living in a small home with no landscape pays the same amount for sewer as a large family.
- (5) Maintain Eligibility for Grants – This will possibly allow the District to continue eligibility for grants if it is in compliance with BMP 11 which requires that agencies implement conservation-based rate structures for participation in water related grants.

Ms. Bell explained that commercial customers currently pay based on strength and flow of sewer. Strength is determined by the type of business and flow is measured by water use. Residential customers pay a flat fee of \$32.70 per month for sewer.

Commercial customers with separate irrigation meters will not be affected by the proposed methodology. However, commercial customers who do not have a separate irrigation meter would be calculated based on their consumption during the months of December through March (winter months). Residential customers will also be calculated based on their average consumption during the four winter months.

A sewer rate comparison chart was shown wherein water-consumption based sewer rates were compared to flat sewer rates. She explained that the large water agencies utilized the consumption based charge.

She indicated that the sewer rate change will be revenue neutral to the District. The average residential bill will remain at \$32.70. There will be two components to the rate structure: (1) variable component which will have a cap of 30 HCF, billed at \$1.39 per unit after 15% reduction of consumption for residential customers and (2) fixed component which will be a proposed monthly system fee of \$9.60 for ¾-inch meters and \$14.00 for one-inch meters. She indicated that BMP 11 recommends that no more than 30 percent of fees collected can be from fixed fees and 70% collected from a variable fee.

She further explained that half of the customers will see a reduction in their bill; the other half will see an increase in their bill. There will be a "phase-in" period of three years to allow the District time to educate customers to conserve and prepare for the rate increase. The phase-in schedule implementation date is January 1, 2008. The approximate maximum annual percent increase will be 20% each year from 2008 to 2010. The phase-in period will cost the District

\$30,000. Currently, the sewer fund has a fund balance sufficient to cover this expense.

Ms. Bell outlined the timeline for the sewer rate changes indicating that the implementation date is January 1, 2008 and customers can expect to see an increase of 20 percent in their sewer bill. Another increase will be imposed in January 2009 which will apply a 20 percent increase and in January 2010, the last increase will be implemented at an additional 20 percent. Staff will ask the Board to approve the sewer rate change included in the FY 2007-2008 budget at the May 29, 2007 special board meeting. At the board meeting in October, a Prop 218 hearing will be held to request adoption of an ordinance to implement the changes. On January 1, 2008, the new rate structure will be implemented.

General Manager Watton indicated that the presentation reflects discussion at the Finance and Administration Committee meeting. Staff originally proposed an immediate application of the rate change. After discussion in the committee meeting, it was recommended that a three-year phase-in be implemented. Please see Attachment A to the staff report for details of the committee meeting discussion.

Director Robak indicated that the District tries to base the rates so it is equitable to all customers. The committee felt that the phase-in method would be fair to customers and allow them to adjust their consumption and better prepare for the increase.

Director Breitfelder commented that in the first two years, the proposal is not revenue neutral. However, by the third year it will be revenue neutral.

A motion was made by Director Robak, seconded by Director Breitfelder and carried with the following vote:

Ayes:	Directors Breitfelder, Croucher, Lopez and Robak
Noes:	None
Abstain:	None
Absent:	Director Bonilla

to approve the implementation of a winter-consumption based sewer charge methodology for residential sewer customers and commercial sewer customers without a separate irrigation meter.

d) APPROVE ORDINANCE NO. 511 AMENDING SECTION 26, WATER RECYCLING PLAN AND IMPLEMENTING PROCEDURES, OF THE DISTRICT'S CODE OF ORDINANCES

General Manager Mark Watton indicated that this item was reviewed by the Engineering, Operations and Water Resources Committee. Certification and permits are required regarding the use of recycled water. The water user is

required to have four hours of training to obtain a certification for recycled water use. This ordinance holds the water user responsible if he/she is not complying or obtaining certification. The ordinance also allows the General Manager to issue a temporary recycled water use permit in order to allow the water user time to obtain the certification necessary.

Director Breitfelder inquired as to the reason the water recycling plan needed to be updated. General Manager Watton replied that there have been some instances in the past where a homeowner modified a sprinkler system to use recycled water. The District wants to have a plan in place that complies with State Department of Health Services regulations and hold the homeowner responsible for misuse of the system.

A motion was made by Director Breitfelder, seconded by Director Lopez and carried with the following vote:

Ayes:	Directors Breitfelder, Croucher, Lopez and Robak
Noes:	None
Abstain:	None
Absent:	Director Bonilla

to adopt Ordinance No. 511 amending Section 26 – Water Recycling Plan and Implementing Procedures of the District’s Code of Ordinances.

INFORMATION / ACTION ITEMS

8. GENERAL MANAGER

a) ADOPT THE 2007/2008 OTAY WATER DISTRICT LEGISLATIVE PROGRAM (BUELNA)

General Manager Watton indicated that this matter was reviewed by the Finance, Administration and Communications Committee. The committee recommended some changes to the program and suggested that this item be taken to the full Board for approval.

Communications Officer Armando Buelna indicated that the 2007-2008 Legislative Program document provides direction to staff when responding to last minute requests for the District to take a position on certain legislative initiatives. The last minute requests are often received from CWA, CSDA or ACWA via phone calls or letters. Staff presented the Legislative Program to the Finance, Administration and Communications Committee then revised the program incorporating input from the committee.

There are several new legislative initiatives in the program including the Governor’s Delta Vision Plan, on-going concerns about the conditions of levees in the Bay-Delta, uncertainty about global climate change, and proposals for

additional surface storage. The Legislative Program also addresses efforts to clarify property ownership procedures as a result of the Bighorn decision. In reviewing the Legislative Program, the committee had comments and concerns which have been incorporated into the revised document. These include recognition that there is a lack of consensus on recycled water issues and therefore several issues relating to recycled water were deleted by the committee. These issues are noted on page 2 of the revised document as “support” items n, o and p and “oppose” item d. The committee also noted that several matters under the “Governance” section on page 4 had already been addressed by the Legislature and signed into law by the Governor dealing with Special District reform, which was AB 1234 enacted in 2005.

The committee also recommended that the topic of universal healthcare be addressed (page 6 of the attached Legislative Program document) to oppose unfunded healthcare mandates and to oppose any item that would limit the District’s flexibility to provide healthcare.

The legislative items are broadly written to address a wide range of potential issues. However, sensitive or potentially controversial matters will be brought to this board for full consideration prior to taking a position on such issues.

A motion was made by Director Breitfelder, seconded by Director Lopez and carried with the following vote:

Ayes:	Directors Breitfelder, Croucher, Lopez and Robak
Noes:	None
Abstain:	None
Absent:	Director Bonilla

to adopt the 2007/2008 Otay Water District Legislative Program.

9. BOARD INFORMATION / ACTION ITEMS

a) DISCUSSION OF 2007 BOARD MEETING CALENDAR

There were no changes to the Board meeting calendar.

REPORTS

10. GENERAL MANAGER’S REPORT

General Manager Watton indicated that a reception was held at the Water Conservation Garden and the Chairman of the Metropolitan Water District, Tim Brick, was in attendance. Mr. Brick also took a tour of the District and was very impressed with the growth.

a) UPDATE ON THE 30" RECYCLED WATER PIPELINE PROJECT (SEE ATTACHMENT "A")

General Manager Watton indicated that start-up meetings are being held with the City of San Diego on a weekly basis to coordinate both agencies' work. He indicated that there are still some instrumentation issues that need to be worked out, but things are on track and moving forward.

He indicated that the San Miguel Consolidated Fire Protection District received grant money from FEMA to fund the Firewise Garden exhibit at the Water Conservation Garden. This exhibit educates the public on how to landscape in a fire wise manner.

General Manager Watton noted that the District's Information Technology Department is implementing two new telecommunications applications for customers. One is an automated dialing system which will alert customers of outages or upcoming customer service actions, such as disconnects. The second application is the automated payment of bills using a credit card. He indicated that this is a good demonstration of how the District is using technology to streamline operations and that the new applications will increase efficiency in the customer service department.

He indicated that Chief of Information Technology Geoff Stevens, will be presenting a paper accepted by ESRI at this year's user conference regarding business applications for GIS in the water industry. He noted that it is very satisfying for the District to have this level of expertise and being invited to share the expertise.

Staff is finalizing the FY 2007-2008 Budget which will be presented to the Board for approval at the end of this month. The results should be consistent with prior year projections.

The San Diego 17 Project (SD17) contract with the City of San Diego, which was funded with monies received from the Prop 50 Grant, is being finalized by staff. It is now being reviewed by the City. However, the City has delayed the review and the Prop 50 Grant is going to need to be extended. Engineering Manager Jim Peasley has been asked to follow-up with the City to ensure that an extension can be granted, if needed. He noted that he is concerned with the City's lack of diligence on this project.

He commented that northern California has begun a strong conservation message. MWD and the Mayors of the City of Los Angeles and the City of San Diego are developing a conservation message for southern California. A 10% voluntary conservation effort might be agreed upon for southern California. (He distributed an article that appeared in the Sacramento *Bee* today.) The article notes how fragile our water system is in southern California. CWA made a presentation on the 2007 water supply update. That presentation is scheduled to

be shown to this Board at the June 6, 2007 board meeting. This presentation will inform the Board on activities at the Metropolitan Water District, the different water supplies available and the consequences if the pumps are shutdown at the state water project because of the “judicial” drought.

The Board received a letter of congratulations from the General Manager of El Dorado Irrigation District, Ms. Ane Deister, regarding Otay’s recognition and award from the WaterReuse Association. He indicated that the El Dorado Water District is very similar to Otay in that their objective is to be proactive and on the forefront of innovation and it was very nice to receive acknowledgment from their agency.

b) SAN DIEGO COUNTY WATER AUTHORITY (SDCWA) UPDATE

President Croucher indicated that the SDCWA is very concerned with the possibility of drought and is working with MWD to formulate a strategy to conserve water and deal with the drought situation. He indicated that at the beginning of April, the Tahoe/Reno Basin was at 40 percent of its normal level and was dropping about 1% a day. He stated it luckily received some additional snow pack which brought back to 40% of its normal level, but it has now dropped back to 29% of its normal level.

He indicated that CWA signed a Rate Integrity Contract with regard to “no lawsuits” as part of any contracts that are signed between Otay and CWA. This contract will allow Otay to continue to receive reduced rates from CWA.

He noted that CWA did hire the Water Conservation Manager. There is a second position that was requested, but it was suggested that the position be included during the budget process.

He reported that the Conservation Ad Hoc Committee met today at CWA. The committee will be requesting that Ms. Marty Eberhardt, Executive Director of the Water Conservation Garden, justify the requested five percent (5%) Garden budget increase. The committee also discussed CWA’s overall plan for conservation which includes incentives for residential customers to install artificial turf. He indicated that there are incentives for sports complexes and high schools to install artificial turf, but there are currently no incentives for residential customers.

He indicated that CWA is in the process of formulating a blueprint to take more of a leadership role in legislative issues. All agencies will still retain their ability to work on legislative issues.

The CWA Board will also be preparing for the budget process within the next month.

11. DIRECTORS' REPORTS/REQUESTS

Director Robak inquired as to the outcome of staff's meeting with the Valle de Oro Planning Group and issues with the pipeline alignment.

Senior Civil Engineer, Hossein Jubyari, indicated that staff is continuing to explore alignment options but has not yet made any final determinations. Staff is waiting for word from the environmental agencies. However, the project is on schedule and 30% of the design is complete. There was discussion regarding property that is for sale that will be impacted by the alignment.

Director Robak noted that the Garden Festival will be held at the Water Conservation Garden on May 19, 2007. He encouraged the Board to attend.

He also indicated that the Water Conservation Board will be asking all agencies to increase their contribution by five percent (5%). The Garden Board was concerned whether the City of San Diego would be able to contribute to the increase in fees. He received a call from Mr. Jim Barrett with the City and was assured that the City will be actively participating.

There was discussion regarding work being performed by the auditors. Director Robak indicated that he has met with the auditors for the District and resolved any questions that he had concerning the audit process.

There was discussion regarding a memorandum prepared by Mark Watton addressed to Director Robak regarding the legality of retiring debt that is authorized but unissued. Director Robak indicated that he understands that there is no intent to issue the debt and suggested that the Board or staff contact a State Senator or Assemblyman and ask that they seek legislation to develop a process to retire unissued debt. General Manager Watton commented that the time has passed for introduction of new bills before the State Assembly. He suggested that the item be brought back for discussion in November or December of this year.

Director Robak inquired how staff determines if a water meter is not working properly. General Manager Watton indicated that there are a couple of indications that a meter has failed: 1) the meter fails completely [no longer recording consumption]; 2) consumption is higher or lower than normal. Such fluctuations in consumption are now flagged by the system. He also indicated that meters are tested or inspected periodically to make sure they are functioning properly. Residential meters are replaced every 15 to 20 years and the new automated meters have a battery that is replaced every 10 years.

Director Robak suggested that the Board agendaize the issue of water scarcity and indirect potable reuse for a future board meeting.

Director Lopez indicated that he attended the Cinco de Mayo event in Chula Vista and Otay's booth was actively visited and well received. He commended staff for their work at the booth and getting the community involved.

Director Breitfelder indicated that he attended the Council of Water Utilities monthly breakfast meeting. He stated that through the Chula Vista Chamber of Commerce, a San Diego Gas & Electric representative invited the group to tour their Emergency Operations Center. He indicated that if any of the Directors wished to tour the center, to please let him know.

12. PRESIDENT'S REPORT

Director Croucher thanked Communications Officer Armando Buelna for the presentation at the Water Conservation Garden for Chairman Timothy Brick of the MET. He also thanked Messrs. Frank Beihl and Steve Ro of Lee & Ro, Inc. for their attendance and support of the event.

He indicated that Otay staff is participating in leadership training at San Miguel Fire Department.

He noted that the Spring Garden Festival scheduled at the Water Conservation Garden on May 19 is approved for per diem as a paid meeting for the Board members to encourage their attendance.

He indicated that a special board meeting will be scheduled to discuss the Cushman Report to address conservation efforts and drought issues.

A stated that the special board meeting to discuss the FY 2007-2008 budget has been scheduled on May 29, 2007. He indicated that if the board required additional time to review the budget that a follow-up meeting can be scheduled to discuss the budget further.

RECESS TO CLOSED SESSION

13. CLOSED SESSION

The board recessed to closed session at 4:28 p.m. to discuss the following matters:

- a) POTENTIAL LITIGATION (GOVERNMENT CODE §54956.9)
 - (i) OTAY WATER DISTRICT v. NORTHROP GRUMMAN
- b) CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION [GOVERNMENT CODE §54956.9(a)]
 - (i) HARRON v. OTAY WATER DISTRICT

- (ii) SOUTHWEST ENGINEERING, INC. v. OTAY WATER DISTRICT
- (iii) SAMUEL BROWN v. OTAY WATER DISTRICT, et. al.

RETURN TO OPEN SESSION

14. REPORT ON ANY ACTIONS TAKEN IN CLOSED SESSION. THE BOARD MAY ALSO TAKE ACTION ON ANY ITEMS POSTED IN CLOSED SESSION

The board reconvened from closed session at 5:26 p.m. General Counsel, Yuri Calderon reported that the Board authorized counsel to waive certain communications that are a part of the attorney/client privilege with respect to the Harron v. Otay Water District matter as counsel deems appropriate. He indicated that specific directions were outlined in closed session.

A motion was made by Director Breitfelder, seconded by Director Lopez and carried with the following vote:

Ayes:	Directors Breitfelder, Croucher and Lopez
Noes:	None
Abstain:	Director Robak
Absent:	Director Bonilla

to authorize counsel to waive certain communications that are a part of the attorney/client privilege with respect to the Harron v. Otay Water District matter as counsel deems appropriate.

No other reportable action was taken in closed session.

President Croucher reminded the Board to review the call for nominations for LAFCO which will be addressed at the next Board meeting.

15. ADJOURNMENT

With no further business to come before the Board, President Croucher adjourned the meeting at 5:27 p.m.

President

ATTEST:

District Secretary

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